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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/690,941	10/21/2003	Roland J. Christensen	22149	7699
7590 03/28/2005 Garron M. Hobson THORPE NORTH & WESTERN, LLP P.O. Box 1219 Sandy, UT 84091-1219			EXAMINER SNOW, BRUCE EDWARD	
			ART UNIT	PAPER NUMBER
			3738	

DATE MAILED: 03/28/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/690,941

Applicant(s)CHRISTENSEN, ROLAND J. *eb***Examiner**

Bruce E Snow

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 11 January 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,3,5-9,12,14,15 and 23-30 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,3,6-9,12,15,23-27,29 and 30 is/are rejected.
- 7) ☐ Claim(s) 5,14 and 28 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Response to Arguments

Applicant's amendments and arguments dated January 11, 2005, have been fully considered. Regarding claims 1 and 9, the following language is has been clarified with the terminology in bold print:

- d) the lower portion being pivotal and displaceable with respect to the upper portion between at least two fixed positions, including:*
- i) a low position configured to dispose the heel section at a lower elevational position[,] and to dispose the heel section in a rearward position **relative to the toe section, and***
- ii) a high position configured to dispose the heel section at a higher elevational position[,] and to dispose the heel section in a forward position **relative to the toe section.**"*

Regarding the rejection in view of Slemker et al, the Examiner's position is stated below.

Allowable Subject Matter

Claims 5, 14, 28 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

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(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

Claims 8-9, 12 and 15 are rejected under 35 U.S.C. 102(b) as being anticipated by Slemker et al (6,228,124).

Slemker et al teaches an adjustable ankle device for a prosthetic foot comprising:

- a) an upper portion 32 configured to be coupled to a socket of an amputee; and
- b) a lower portion 22, adjustably coupled to the upper portion, configured to be attached to a foot member with heel and toe sections; and

- c) a movable coupling including elements 30, 28, 42, 44, disposed between the upper and lower portions, and fully capable of movable so that the lower portion moves:

- i) simultaneously in a downward and forward direction in which the lower portion simultaneously pivots downward and displaces forward with respect to

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the upper portion; and

ii) simultaneously in a rearward and upward direction in which the lower portion simultaneously pivots upward and displaces rearward with respect to the upper portion; and

d) the lower portion being pivotal and displaceable with respect to the upper portion between at least two fixed positions, including:

- i) a low position configured to dispose the heel section at a lower elevational position, and to dispose the heel section in a rearward position', and
- ii) a high position configured to dispose the heel section at a higher elevational position, and to dispose the heel section in a forward position.

Regarding the T-shaped projection, see figure 5.

Regarding claim 8, as shown in the figure 2, the elements 20 and 22 clearly have an arcuate front and rear edge and, therefore, are interpreted as an arcuate projection and an arcuate slot.

Claims 1, 3, 6, 7, 23, 26, 27, 29-30 are rejected under 35 U.S.C. 102(b) as being anticipated by Albinson et al (3,206,235).

Referring to all embodiment, specifically figure 8 for discussion, Albinson et al teaches an adjustable ankle device for a prosthetic foot comprising:

- a) an upper portion 65 configured to be coupled to a socket of an amputee; and
- b) a lower portion 57 adjustably coupled to the upper portion, configured to be attached to a foot member with heel and toe sections; and

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c) a movable coupling including elements 60 (arched projection), 55 (arcuate slot) disposed between the upper and lower portions, and fully capable of movable so that the lower portion moves:

- i) simultaneously in a downward and forward direction in which the lower portion simultaneously pivots downward and displaces forward with respect to the upper portion; and
- ii) simultaneously in a rearward and upward direction in which the lower portion simultaneously pivots upward and displaces rearward with respect to the upper portion; and

d) the lower portion being pivotal and displaceable with respect to the upper portion between at least two fixed positions, including:

- i) a low position configured to dispose the heel section at a lower elevational position, and to dispose the heel section in a rearward position', and
- ii) a high position configured to dispose the heel section at a higher elevational position, and to dispose the heel section in a forward position.

It is noted that the movable coupling is arcuate and has a center of rotation below element 60 and 55 producing the claimed path of movement limited to forward and down (forward being on the left in figure 8).

See locking pin 75.

Claims 1, 3, 6, 7, 23-27, 29-30 are rejected under 35 U.S.C. 102(e) as being anticipated by Chen (4,676,800).

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Chen et al teaches an adjustable ankle device for a prosthetic foot comprising:

a) an upper portion 10 configured to be coupled to a socket of an amputee; and
b) a lower portion 20 adjustably coupled to the upper portion, configured to be attached to a foot member with heel and toe sections; and

c) a movable coupling including an arched projection and a concave surface disposed between the upper and lower portions, and fully capable of movable so that the lower portion moves:

i) simultaneously in a downward and forward direction in which the lower portion simultaneously pivots downward and displaces forward with respect to the upper portion; and

ii) simultaneously in a rearward and upward direction in which the lower portion simultaneously pivots upward and displaces rearward with respect to the upper portion; and

d) the lower portion being pivotal and displaceable with respect to the upper portion between at least two fixed positions, including:

i) a low position configured to dispose the heel section at a lower elevational position, and to dispose the heel section in a rearward position', and

ii) a high position configured to dispose the heel section at a higher elevational position, and to dispose the heel section in a forward position.

It is noted that the movable coupling is arcuate and has a center of rotation below element 30 producing the claimed path of movement limited to forward and down.

See column 2, lines 50 teaching attaching to a prosthetic foot.

Regarding the aperture and locking pin, see elements 52-55, 104, 205.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

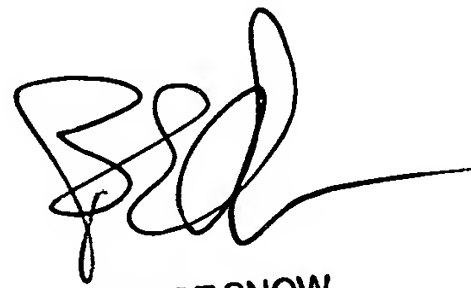
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Bruce E Snow whose telephone number is (571) 272-4759. The examiner can normally be reached on Mon-Thurs.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Corrine McDermott can be reached on (571) 272-4754. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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BRUCE SNOW
PRIMARY EXAMINER